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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,514	06/08/2000	Allan Herrod	4842.0068-01	1287
7590	09/30/2005		EXAMINER	
ALAN ISRAEL, ESQ Kirschstein, Ottinger, Israel & Schiffmiller, P.C. 489 Fifth Avenue New York, NY 10017-6105			FRANKLIN, JAMARA ALZAIDA	
			ART UNIT	PAPER NUMBER
			2876	
DATE MAILED: 09/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/589,514	HERROD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jamara A. Franklin	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 80-82 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 80-82 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

Acknowledgment is made of the amendment filed on 8/16/05. Claims 80-82 are currently pending.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sainton et al. (US 5,854,985) (hereinafter referred to as 'Sainton') in view of Ludtke et al. (US 6,279,059) (hereinafter referred to as 'Ludtke') and Stilp (US 5,327,144).

Sainton teaches a method of reducing a cost of transmitting data from a mobile data collection terminal to a remote host over a communication network having a plurality of channels including a wireless channel, comprising the steps of:

determining a location of the terminal relative to the host (col. 16, lines 28-30);

determining the cost of transmitting the data from the location of the terminal over each channel to the host (col. 16, lines 61-64 and col. 17, lines 1-20);

selecting the channel for data transmission based on the location of the terminal and the cost determined to be least (col. 16, lines 32-34); and

transmitting the data from the terminal to the host over the channel selected with the least cost.

Sainton lacks the teaching of a digital camera.

Ludtke teaches a method of transmitting data comprising the steps of:

supporting a digital camera on a terminal (docking station 100);

operating the camera to capture an image (col. 3, lines 49-52); and

transmitting the image from the terminal to the host (col. 3, lines 17-26).

One of ordinary skill in the art would have readily recognized that providing the terminal with means for supporting a digital camera would have been beneficial since transferring image data is one of many usages of a terminal. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Sainton with the aforementioned teaching of Ludtke to efficiently transmit image data.

Sainton/Ludtke lack the teaching of determining a geographical location by operation of a global positioning system.

Stilp teach a method comprising the step of:  
determining a geographical location of the terminal relative to the host by operation of a  
global positioning system (col. 10, lines 10-36).

One of ordinary skill in the art would have readily recognized that providing the  
Sainton/Ludtke invention with the global positioning system would have been beneficial for  
precise determining the location of the terminal, thereby reducing error in the transmission of  
data which may arise from the improper determination of the location. Therefore, it would have  
been obvious, at the time the invention was made, to modify the teachings of Sainton/Ludtke  
with the aforementioned teaching of Stilp.

4. Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over  
Sainton/Ludtke/Stilp as applied to claim 80 above, and further in view of Pieterse (US  
6,088,127).

The teachings of Sainton/Ludtke/Stilp have been discussed above.

Sainton/Ludtke/Stilp lack the teaching of the step of determining a priority for the data.

Pieterse teaches the step of determining a priority of data wherein the selecting step is  
also based on the priority data (col. 8, lines 35-48).

One of ordinary skill in the art would have readily recognized that transmitting data in  
view of priority of the data would have been beneficial to the invention of Sainton for the  
purpose of arranging data so that time and energy may be conserved in trying to transmit less  
important data. Therefore, it would have been obvious, at the time the invention was made, to  
modify the teachings of Sainton/Ludtke/Stilp with the aforementioned step as taught by Pieterse.

5. Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sainton/Ludtke/Stilp as applied to claim 80 above, and further in view of Wang et al. (US 5,490,217) (hereinafter referred to as ‘Wang’).

The teachings of Sainton/Ludtke/Stilp have been discussed above.

Sainton/Ludtke/Stilp lack the teaching of the image being a bar code symbol.

Wang teaches transmitting a bar code (col. 4, lines 3-12).

One of ordinary skill in the art would have readily recognized that an image, particularly a bar code image, is one of a plethora of data which may be transmitted to a remote location for the purpose of conveying information to another source. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Sainton/Ludtke/Stilp with the transmission of an image as taught by Wang convey information.

#### *Response to Arguments*

6. Applicant's arguments with respect to claims 80-82 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
September 22, 2005

  
MICHAEL G. LEE  
SUPERVISORY PATENT EXAMINER  
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